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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,105	04/03/2001	Antoon Walter Waldeyer	WALD3001/JEK	9304

7590 11/07/2008
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EXAMINER

JANVIER, JEAN D

ART UNIT	PAPER NUMBER
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3688

MAIL DATE	DELIVERY MODE
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11/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/824,105	Applicant(s) WALDEYER, ANTOON WALTER	
	Examiner JEAN JANVIER	Art Unit 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 4-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Response to Applicant's Arguments

112(1) Rejection

The Examiner drops the 112(1) in view of the Applicant's arguments.

112(2) Rejection

This rejection has nothing to do with the 112(1), which is now null and void. Further, specific limitations from the specification related to the argued claim language, "...and once said connection is generated, disconnecting said connection", are not being read into the claimed invention. Moreover, the explanation provided by the Examiner in the "Examiner Comments" simply represents the Examiner's interpretation and understanding of the claim language with respect to prior art rejection and cannot be used to compensate for the lack of clarity in the claim. In other words, it is unclear what the metes and bounds of the argued limitation are. In fact, as the claim recites if "once a connection is generated, disconnecting said connection", then no real action takes place because of the sudden disconnection.

Applicant's prior art arguments with respect to the claimed invention have been considered, but are moot in view of the new ground(s) of rejection. In other words, the arguments are fully addressed in the Office Action.

Therefore, the Applicant's request for allowance or withdrawal of the last Office Action has been fully considered and respectfully denied in view of the foregoing response.

DETAILED ACTION

Specification

Claim Status

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Claims 1-18 are currently pending in the Application. Claims 1-3 and 18 are being examined, while claims 4-17 have been withdrawn from further consideration.

General Comments

Regarding the new claim language "...once said connection is generated, disconnecting said connection", it is greatly expected here **that the connection will be terminated at some point in time by the caller upon successfully completing his call**, as one skilled in the art would have concluded. And it appears that the new claim language does not affect the claimed invention in any significant manner.

For examination purpose, the Examiner will interpret the action-specific amount in claim 1 as a kind of surcharge that is in addition to the regular charge as the Applicant intended it to be.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being confusing.

In independent claim 1, the call originator plays no role except for making a phone call, which triggers a donation and thus, the amount charged to his account for making the phone is part of the call originator's agreement with the data processing or a telephone company. Further, the contract, related to the fundraising is between the data processing entity and the fundraising entity and hence, such contract does even remotely involve the call originator. Therefore, the concept of allowing the originator to select an action-specific amount (e.g. a surcharge) to be charged (which will be donated to the fundraising), as featured in claim 2, is premature and confusing at best since the contract is between the data processing entity and the fundraising

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party. Additionally, claim 1 talks about a charge consisting of an operational cost for the data processing entity and an action-specific amount (not a surcharge per se since it is not authorized by the caller), that is not controlled or allowed by the call originator, that is to be forwarded to the fundraising entity. Here, the charge is a routine or ordinary amount of money charged by a telephone company whenever a phone call is made by a user based on a subscription agreement. On the other hand, claim 2 is trying to present the action-specific amount is a surcharge authorized by the call originator who is not part of the original contract. In claim 1, the data processing entity decides to give or make donations to the fundraising entity and will enjoy the tax benefits related to charitable gifts, while in claim 2, it appears that the call originator makes the donations and will enjoy the tax benefits related to charitable gifts.

Claim 3 recites similar limitations and it is rejected under a similar rationale.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the

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reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Greene, USP 5,568,541A.

As per claims 1 and 18, Greene discloses a method of and a system for placing a surcharge on telephone solicitations including the steps of providing a local telephone number to a customer (which may include a fundraising party) for accessing a call from an originating caller and identifying the originating caller's telephone number, as for example, by conventional caller identification systems. The method also includes the steps of advising the caller of the surcharge. The method further includes the steps of billing the caller for the surcharge and crediting a portion of that charge to the customer's account (establishing an agreement between a caller/solicitor and a telecommunication system or data processing entity that a cost for a call made by the caller to a customer/fundraising entity comprises a normal or operational cost for the data processing entity and an action-specific charge/amount or surcharge to be paid in part to the customer by the data processing entity and identifying the caller via a caller identification device or caller ID) (See abstract; figs 1-3; col. 1: 8-12; col. 2: 3-25; col. 2: 48-67; col. 3: 18-25; col. 3: 47-64 and claim 1 of the current reference). Further, the calling party or caller is notified of the current rate, including the surcharge, related to the incoming call made to the customer/subscriber (col. 4: 31-33).

Additionally, and more importantly, Greene teaches partially crediting (donating) the surcharge or action-specific amount to a customer/subscriber when a caller or solicitor makes/places, via a telecommunication system (data processing entity), an incoming call to the

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customer. It should herein be noted that Greene does not limit or define who the customer or subscriber is. Hence, it can be concluded therefrom, using a reasonable and broad interpretation, that the customer or subscriber includes indeed a charity or non-profit/fundraising entity for the non-profit entity is a subscriber or customer of the telecommunication system or receives communication services via the telecommunication system (data processing entity).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greene, USP 5,568,541A in view of Gruber, US 2002/0029179A1.

As per claims 2-3, Greene discloses a method of and a system for placing a surcharge on telephone solicitations including the steps of providing a local telephone number to a customer (which may include a fundraising party) for accessing a call from an originating caller and identifying the originating caller's telephone number, as for example, by conventional caller identification systems. The method also includes the steps of advising the caller of the surcharge. The method further includes the steps of billing the caller for the surcharge and crediting a portion of that charge to the customer's account (establishing an agreement between a caller/solicitor and a telecommunication system or data processing entity that a cost for a call made by the caller to a customer/fundraising entity comprises a normal or operational cost for

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the data processing entity and an action-specific charge/amount or surcharge to be paid in part to the customer by the data processing entity and identifying the caller via a caller identification device or caller ID) (See abstract; figs 1-3; col. 1: 8-12; col. 2: 3-25; col. 2: 48-67; col. 3: 18-25; col. 3: 47-64 and claim 1 of the current reference). Further, the calling party or caller is notified of the current rate, including the surcharge, related to the incoming call made to the customer/subscriber (col. 4: 31-33).

Additionally, and more importantly, Greene teaches partially crediting (donating) the surcharge or action-specific amount to a customer/subscriber when a caller or solicitor makes/places, via a telecommunication system (data processing entity), an incoming call to the customer. It should herein be noted that Greene does not limit or define who the customer or subscriber is. Hence, it can be concluded therefrom, using a reasonable and broad interpretation, that the customer or subscriber includes indeed a charity or non-profit/fundraising entity for the non-profit entity is a subscriber or customer of the telecommunication system or receives communication services via the telecommunication system (data processing entity).

As per claims 2-3, Greene does not expressly disclose selecting by the caller, via a telephone set or telecommunication device, one surcharge or action-specific amount from a plurality of displayed surcharges or action-specific amounts or entering a different value that should be credited or donated to the customer or fundraising entity as a result of the incoming call placed by the caller to the customer.

However, Gruber discloses a system and method for conducting on-line interactive fundraising over a wide-area network. The method includes hosting an organization's website including a plurality of hyperlinked web pages, displaying one or more virtual plaque web pages

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honoring donors, providing one or more donation and payment option web pages, the options selectable by a donor (selecting by a donor a donation amount from a plurality of displayed donation values) and modifying or otherwise updating virtual plaques on the virtual plaque web pages when a donation is made (See abstract; figs2-3 and 8).

FIG. 8 is a flow diagram illustrating an exemplary method for implementing an interactive fundraising event over the Internet. The method begins at step 804 and proceeds to step 808 where a potential donor enters a charitable organization's website that includes promotional information about the organization, including the charitable cause. The web page 804 is accessible on the Internet and published in an on-line format. The donor selects the appropriate donation and payment options as mentioned in step 816 (selecting by a donor a donation amount from a plurality of displayed donation values) (page 4 and [0055]-[0056]).

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention to incorporate Gruber's teachings into the Greene's system so as to select by the caller, via his telephone set or telecommunication device, one surcharge or action-specific amount from a plurality of displayed surcharges or action-specific amounts or enter a different value that should be credited or donated to the customer or called party or fundraising entity as a result of the incoming call placed by the caller to the customer, thereby rendering the system more flexible by allowing the caller to select the surcharge or action-specific amount from a plurality of displayed values or input, via his telephone set, a different value that he wants to credit or donate to the customer (fundraising entity) for making a call to the customer instead of imposing a single surcharge or action-specific amount that the caller or solicitor may consider to be too high for placing the call to the customer.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

USP 6,697,469B1 to Koster discloses a system wherein a calling-party-pays gateway is operative for billing a surcharge for a telecommunication service to an account associated with a calling line number. The calling-party-pays gateway is configured for connection between a telephone system and a switch servicing a group of terminating stations such that all communications directed to terminating stations serviced by the switch are routed through the gateway. When the gateway receives a connection request defining a communication directed to a terminating station serviced by the switch, the gateway determines whether the terminating station is associated with an account that requires the surcharge to be billed to the account associated with the calling line number. If the terminating station is associated with an account that requires the surcharge to be billed to the account associated with the calling line number, the gateway determines whether the account associated with the calling line number is pre-approved to receive the surcharge. If the account associated with the calling line number is pre-approved to receive the surcharge, the gateway routes the communication to the terminating station and creates an accounting record billing the surcharge to the account associated with the calling line number (See abstract).

USP 6,581,041B1 to Canney discloses a system to increase charitable giving by systematically linking investing with giving by designing a fee structure within an investment whereby at least a part of the fee is automatically transferred to a donor-advised account within a

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charitable community foundation (donating a portion of the fee or charge to a non-profit or fundraising entity). In an alternative method, a credit card or debit card may also be utilized to systematically link charitable giving with consumer purchases. In the credit/debit card context, a part of the fee equal to the difference between what a consumer charges and what the card issuer pays to the merchant is given to a charitable community foundation and directed to a donor-advised account within such foundation (See abstract; figs. 1-5; col. 2: 3-23; See claim 1 of the current reference).

USP 6,052,674 to Zervides discloses an electronic commerce invoicing and collection system (EICS) for providing the services of invoicing, automatic "past due" reminders in a real time recorded/registered format is described. Customers of a supplier are encouraged to pay invoices promptly via increased leverage of the supplier, public disclosure of a customer's payment behavior, and donations to charity. An integral part of this invention is accurate payment analysis statistics data that exceeds the detail and timeliness of present systems. The EICS provides a methodology to enable banks to minimize their risk when lending money and save on customer auditing fees. The system and method also provide for bank charges, bank interest payments, factoring charges, and charities to be subsidized by customers who pay their invoices late. The result of such a system and method is customer payment behavior modification (See abstract).

US PGPub 2002/0049816 discloses a fundraising system and method that allows users to raise money from friends and other entities over a distributed network, such as the Internet, is presented. The present invention provides online marketing applications for e-businesses by using the power of viral marketing to enable clients to attract new customers at a lower cost, and

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build brand loyalty. For example, the fundraising system of the present invention enables e-businesses to partner with causes, such as charitable, non-profit and community organizations, to host fundraising events online with interactive participation by all involved. For example, an e-mail networking component may enable fund-raisers to send out an infinite amount of requests supporting the cause they care about. Thus, for every fund-raiser, the host e-business gets a new flow of visitors to their site.

USP 2005/0240433 to Schwartz discloses a system and method for efficiently conducting a fundraising campaign over a wide-area network. In accordance with the invention a method for conducting an efficient fundraising campaign by an organization over a wide-area network includes the steps of hosting a website including a plurality of linked web pages, the website soliciting potential donors to make a charitable contribution to the fundraising campaign, registering, by the donors, on the website, making a charitable donation on the website, contacting third parties via email messages soliciting charitable donations, and providing one or more reports, on the website, including information on the status of the fundraising campaign. The method further comprises the step of contacting third parties, via email messages, to provide information about one or more teams participating in a competition associated with the fundraising campaign. The method further comprises the step of providing information, in the reports, about the third parties that have been contacted via email messages. The method further comprises the step of providing, in the reports, a real time status of the fundraising campaign, and wherein the real time status provide a convenient means for monitoring the progress of the campaign. The method further comprises the step of joining a team, on the website, to participate in the fundraising campaign. The method further comprises the step of forming a new team, on

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the website, to participate in the fundraising campaign. The method further comprises the step of recruiting new team members by email messages.

USP 2001/0026609 to Weinstein discloses a method and apparatus for facilitating web-initiated communication by telephone, providing for both anonymous and non-anonymous communication, which allows users to contact each other through a trusted central connecting facility provides breakthroughs in personal control, privacy, and safety for people communicating over the telephone. All calls are incoming calls, both to callers and call recipients. Users may control what time windows they can receive calls from other users, on an individual basis. Billing for professional services delivered over the phone may be done automatically through the call delivery system. Both one-to-one and group calls are provided. An auction feature allows customers to bid for phone time with desired personalities. Calls may be scheduled to happen automatically at pre-arranged times. Use of PIN codes prevents unintended recipients from receiving a call. Users may generate temporary contact number cards which can be given out to people they meet, such that calling access will be controllable and traditional contact information (such as phone number and address, full name, etc.) can be kept private. Users may sign up for paid accounts or free accounts. Free accounts may only receive calls and make collect calls. Applications include dating websites, on-line greeting cards with a phone call contained, phone connection during on-line chat, customer service, time-controlled phone contact for on-line auctions, supplemental long-distance and international calling, and fund-raising.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (571) 272-6719. The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (571) 272- 6724.

Non-Official- 571-273-6719.

Official Draft : 571-273-8300

10/22/08

/J. J./

/Jean Janvier/
Primary Examiner, Art Unit 3688

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